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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,516	12/05/2001	Markus Oechsle	P21470	6146

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EXAMINER

HALPERN, MARK

ART UNIT PAPER NUMBER

1731

DATE MAILED: 01/31/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/936,516

Applicant(s)

OECHSLE ET AL.

Examiner

Mark Halpern

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 33-104 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-104 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) g.
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1) Claims 33-83, 92, 96-101, 103, are rejected under 35 U.S.C. 102(b) as being anticipated by Fleischer (WO 96/03616).

Claims 33-34, 36, 38-41, 43, 48-55, 58-59, 61, 64-70, 74-80, 98-101, 103:

Fleischer discloses an apparatus and method for determining properties of a running material web, press fabric P, for use in papermaking machines, more particularly in the dry parts of papermaking machines, comprising a measuring device B which incorporates means for obtaining data relating to the thickness of the material web and has three degrees of freedom of movement corresponding respectively to three rotary movements and three degrees of freedom of movement corresponding respectively to three linear movements so that data can be obtained from more than one measuring location (Fleischer, pg. 2, line 15 to pg. 3, line 14, pg. 4, lines 17-20, pg. 5, lines 11-16, pg. 6, lines 1-25, pg. 7, line 35 to pg. 8, line 4, and Figures 1-3). The apparatus is supported on stand 40, and consists of pair of opposed displacement meters 78, 80, aligned perpendicular to the fabric surfaces for measuring their displacement. A universal coupling 48 mounts the displacement meter unit (Abstract).

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Claims 35, 37, 81: Fleischer fails to disclose that the measuring device is for measuring parameters that includes at least one of air temperature, moisture, flow, flow direction and flow speed as recited in claim 35, or for measuring other measured parameters as disclosed in claims 37, 81. The claims are apparatus claims.

Apparatus claims must be structurally distinguishable from the prior art. Manner of operating the device does not differentiate apparatus claims from the prior art. MPEP 2114.

Claims 42, 44-46, 55-57, 60-63: the three degrees of freedom of movement are in x, y, and z direction or axis, said directions being perpendicular to each other. The measurement is parallel to the running direction of the web. The measurement is transverse and vertical to the running direction.

Claims 71-73, 92: the measuring device of Fleischer may be utilized in different sections of a papermaking machine, i.e. forming section, press section, dryer section (pg. 5, lines 11-16).

Claims 82-83: control unit is an electronic processor 100, which obtains signals from meters 78, 80, and transforms the signals into a caliper signal representing the thickness of the fabric (pg. 7, lines 29-35).

Claim 96: electrical signals move the measuring device (pg. 7)

Claim 97: the measuring device can be manually moved (Figure 2).

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2) Claims 84-91, 93-95, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fleischer.

Claims 84-91: Fleischer is applied as above for claim 33, Fleischer fails to disclose that the measuring device is coupled to a frame or to a beam. It would have been obvious, to one skilled in the art at the time the invention was made, that the measuring device be coupled to a frame or to a beam, because Fleischer teaches that the measuring device may be utilized in different sections of a papermaking machine, i.e. forming section, press section, dryer section (pg. 5, lines 11-16), and that while in the illustrated embodiment, the measurement assembly is mounted on a stand, it may be supported on any support needed, even on a fork lift truck, as long as a stable support is provided (pg. 8, lines 12-24).

Claims 93-95: Fleischer is applied as above for claim 33, Fleischer fails to disclose that the measuring device is protected against falling objects. It would have been obvious, to one skilled in the art at the time the invention was made, that the measuring device be protected as are all delicate instruments in a papermaking plant, since it is good maintenance practice and economic incentive to extend the life of measuring devices.

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- 3) Claims 102, 104, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fleischer in view of Mori (5,718,060).

Claims 102, 104: Fleischer is applied as above for claim 100, Fleischer fails to disclose that the measured parameters include at least one of air temperature, moisture, flow, flow direction and flow speed, or other measured parameters, for example, a temperature of dry air used to dry the material web. Mori discloses a papermaking process control system that includes a control system for a web drying operation wherein temperature of a the web drying air temperature is measured or calculated as shown in Figure 9B. It would have been obvious, to one skilled in the art at the time the invention was made, to combine the teachings of Fleischer and Mori, because such a combination would expand the measuring parameters capabilities in the measuring device of Fleischer.

#### ***Response to Amendment***

- 4) Election of species restriction is withdrawn in view of Applicant's argument.

#### ***Conclusion***

- 5) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Halpern whose telephone number is 703-305-4522. The examiner can normally be reached on Mon-Fri, (9:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 703-308-1164. The fax phone numbers

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for the organization where this application or proceeding is assigned are 703-308-7718 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

A handwritten signature in black ink, appearing to read "M. Halpern", with a stylized, flowing script.

Mark Halpern  
Patent Examiner  
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January 26, 2003